

“(D) organizations that represent older individuals.

“(2) PUBLIC COMMENT.—Prior to issuing the advisory guidelines required in subsection (c), the Secretary shall provide an opportunity for public comment on the proposed advisory guidelines.

“(C) ADVISORY GUIDELINES.—Not later than 4 years after the date of enactment of this Act [Sept. 30, 1996], the Secretary shall develop and issue, based on the results of the study required by subsection (a), advisory guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of law enforcement officers and firefighters to perform the requirements of the jobs of the officers and firefighters.

“(d) JOB PERFORMANCE TESTS.—

“(1) IDENTIFICATION OF TESTS.—After issuance of the advisory guidelines described in subsection (c), the Secretary shall issue regulations identifying valid, nondiscriminatory job performance tests that shall be used by employers seeking the exemption described in section 4(j) of the Age Discrimination in Employment Act of 1967 [29 U.S.C. 623(j)] with respect to firefighters or law enforcement officers who have attained an age of retirement described in such section 4(j).

“(2) USE OF TESTS.—Effective on the date of issuance of the regulations described in paragraph (1), any employer seeking such exemption with respect to a firefighter or law enforcement officer who has attained such age shall provide to each firefighter or law enforcement officer who has attained such age an annual opportunity to demonstrate physical and mental fitness by passing a test described in paragraph (1), in order to continue employment.

“(e) DEVELOPMENT OF STANDARDS FOR WELLNESS PROGRAMS.—Not later than 2 years after the date of enactment of this Act [Sept. 30, 1996], the Secretary shall propose advisory standards for wellness programs for law enforcement officers and firefighters.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$5,000,000 to carry out this section.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 626 of this title.

### § 624. Study by Secretary of Labor; reports to President and Congress; scope of study; implementation of study; transmittal date of reports

(a)(1) The Secretary of Labor is directed to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to the Congress. Such study shall include—

(A) an examination of the effect of the amendment made by section 3(a) of the Age Discrimination in Employment Act Amendments of 1978 in raising the upper age limitation established by section 631(a) of this title to 70 years of age;

(B) a determination of the feasibility of eliminating such limitation;

(C) a determination of the feasibility of raising such limitation above 70 years of age; and

(D) an examination of the effect of the exemption contained in section 631(c) of this title, relating to certain executive employees, and the exemption contained in section 631(d) of this title, relating to tenured teaching personnel.

(2) The Secretary may undertake the study required by paragraph (1) of this subsection directly or by contract or other arrangement.

(b) The report required by subsection (a) of this section shall be transmitted to the President and to the Congress as an interim report not later than January 1, 1981, and in final form not later than January 1, 1982.

(Pub. L. 90–202, § 5, Dec. 15, 1967, 81 Stat. 604; Pub. L. 95–256, § 6, Apr. 6, 1978, 92 Stat. 192.)

#### REFERENCES IN TEXT

Section 3(a) of the Age Discrimination in Employment Act Amendments of 1978, referred to in subsec. (a)(1)(A), is section 3(a) of Pub. L. 95–256, Apr. 6, 1978, 92 Stat. 189, which amended section 631 of this title.

#### AMENDMENTS

1978—Pub. L. 95–256 designated existing provisions as par. (1), added cls. (A) to (D), added par. (2), and added subsec. (b).

#### STUDY TO ANALYZE POTENTIAL CONSEQUENCES OF ELIMINATION OF MANDATORY RETIREMENT ON INSTITUTIONS OF HIGHER EDUCATION

Pub. L. 99–592, § 6(c), Oct. 31, 1986, 100 Stat. 3344, provided that:

“(1) The Equal Employment Opportunity Commission shall, not later than 12 months after the date of enactment of this Act [Oct. 31, 1986], enter into an agreement with the National Academy of Sciences for the conduct of a study to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education.

“(2) The study required by paragraph (1) of this subsection shall be conducted under the general supervision of the National Academy of Sciences by a study panel composed of 9 members. The study panel shall consist of—

“(A) 4 members who shall be administrators at institutions of higher education selected by the National Academy of Sciences after consultation with the American Council of Education, the Association of American Universities, and the National Association of State Universities and Land Grant Colleges;

“(B) 4 members who shall be teachers or retired teachers at institutions of higher education (who do not serve in an administrative capacity at such institutions), selected by the National Academy of Sciences after consultation with the American Federation of Teachers, the National Education Association, the American Association of University Professors, and the American Association of Retired Persons; and

“(C) one member selected by the National Academy of Sciences.

“(3) The results of the study shall be reported, with recommendations, to the President and to the Congress not later than 5 years after the date of enactment of this Act [Oct. 31, 1986].

“(4) The expenses of the study required by this subsection shall be paid from funds available to the Equal Employment Opportunity Commission.”

### § 625. Administration

The Secretary shall have the power—

#### (a) Delegation of functions; appointment of personnel; technical assistance

to make delegations, to appoint such agents and employees, and to pay for technical assistance on a fee for service basis, as he deems necessary to assist him in the performance of his functions under this chapter;

#### (b) Cooperation with other agencies, employers, labor organizations, and employment agencies

to cooperate with regional, State, local, and other agencies, and to cooperate with and fur-